

REMARKS

In the Office Action mailed July 29, 2009 from the United States Patent and Trademark Office, claim 40 was rejected under 35 U.S.C. § 102(a) as being anticipated by Zhang. Submitted herewith are declarations under 37 C.F.R. §§ 1.131 and 1.132 by Applicants regarding the dates of reduction to practice of the claimed invention.

The instant application claims priority to provisional application serial number 60/422,535 filed on October 31, 2002. The newly-cited prior art has a priority date of October 22, 2002, just nine days prior to the filing of Applicants' provisional application.


The declarations under 37 C.F.R. §§ 1.131 and 1.132 establish that the claimed invention was reduced to practice in prototype form at least as early as May 14, 2002, and that production models were first sold on September 4, 2002. Either date establishes a reduction-to-practice date that predates the priority date of Zhang. Therefore, in light of the attached declarations, Applicants respectfully submit that Zhang is not prior art under 35 U.S.C. § 102(a) and that the rejection should therefore be withdrawn.

CONCLUSION

Applicants submit that no new matter has been added and that the claim is now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

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Respectfully submitted,



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